



The State of New Hampshire
Department of Environmental Services
Water Council

PO Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Appeals Clerk Telephone (603) 271-6072 - TDD Access: Relay NH 1-800-735-2964
DES Website: www.des.nh.gov - Council Website: www.des.state.nh.us/councils/



April 14, 2004

Jennifer J. Patterson, Esq.
33 Capitol Street
Concord, NH 03301-6397

RE: Docket No. 03-14 WC – Gerald A. Bell Appeal

Dear Attorney Patterson:

Enclosed please find the NH Water Council's Decision & Order relative to the *Unanimous Request to Continue Stay*, which you filed with my office on behalf of the Department of Environmental Services, on April 12, 2004.

If you have any questions please contact me at (603) 271-6072 or by email at msclafani@des.state.nh.us

Sincerely,

Michael Sclafani, Appeals Clerk
NH Water Council

cc: NH Water Council
Michael P. Nolin, Commissioner, DES
Harry T. Stewart, P.E., Director, DES Water Division
John R. Bush, Administrator, DES Water Division
Michael P. Bentley, Esq., Appellant
Thomas R. Hanna, Esq., Intervener



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STATE OF NEW HAMPSHIRE

WATER COUNCIL

Decision & Order

Docket No. 03-14 WC

Appeal of Gerald A. Bell
In Re: Application for Waiver of Septage Rules

Unanimous Request to Continue Stay

Background

On September 18, 2003, Gerald A. Bell ("Appellant") filed a petition for appeal with the NH Water Council ("the Council").

On December 31, 2003, the Appellant filed a Notice of Filing of Declaratory Judgment Action with the Council.

On December 31, 2003, the Department of Environmental Services Water Division ("DES"), filed an Assented-to Motion to Stay Appeal.

On January 6, 2004 the Council granted the Motion to Stay, and ordered the parties to the appeal to appear before the Council to offer a case status update at its regular April Council Meeting scheduled for April 14, 2004, to request that the Council continue the stay or proceed forward with the appeals process.

On April 12, 2004, DES filed a Unanimous Request to Continue Stay. In its filing, DES argued that the stay in the appeal should be continued pending the outcome of the Petition for

Declaratory Judgment before the Merrimack Superior Court, the outcome of which will likely have a direct impact on this appeal.

Discussion / Conclusion

The Council agrees that in the interest of efficiency, a continuance of the stay of this appeal pending the resolution of the declaratory judgment action now pending in the Merrimack County Superior Court is appropriate at this time.

Order

Unanimous Request to Continue Stay is **GRANTED**.

So Ordered for the Council by:

COPY


Michael Sciafani, Appeals Clerk

April 14, 2004